

1 UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF ARIZONA

3
4 United States of America,)
)
5 Plaintiff,) No. CR 15-924-PHX-GMS
)
6 vs.) Phoenix, Arizona
) July 18, 2016
7 Parris Frazier,) 9:39 a.m.
)
8 Defendant.)
)
9 _____)

10 REPORTER'S TRANSCRIPT OF PROCEEDINGS

11 BEFORE THE HONORABLE G. MURRAY SNOW

12 (Sentencing Hearing)

13 Appearances:

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24 Proceedings taken by stenographic court reporter
25 Transcript prepared by computer-aided transcription

UNITED STATES DISTRICT COURT

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P R O C E E D I N G S

THE COURT: Please be seated.

THE CLERK: This is CR 15-924, United States of
America versus Parris Frazier, on for sentencing.

09:39:27

MR. KOEHLER: Good morning, Your Honor. Joe Koehler
appearing for Lisa Jennis for the United States.

THE COURT: Good morning, Mr. Koehler.

MR. BUESING: And good morning, Your Honor. James
Buesing appearing on behalf of Mr. Frazier, who is present and
ready to proceed with sentencing.

09:39:38

THE COURT: Mr. Buesing.

Mr. Frazier, good morning, sir.

THE DEFENDANT: Good morning, sir.

How are you, sir?

09:39:46

THE COURT: I'm fine this morning.

How are you doing?

THE DEFENDANT: Very well. Thank you, sir.

THE COURT: Good. You're aware that you're here to be
sentenced for the crime of possession of a firearm in
furtherance of a drug trafficking offense. You entered a plea
agreement with the United States in which you pled guilty to
that offense.

09:39:54

I believe I've already accepted your guilty plea,
isn't that right, Kathleen?

09:40:07

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1 Yes, I have already accepted your guilty plea. And
2 when I did accept your guilty plea, the United States Probation
3 Department prepared a presentence investigation report. It
4 looks like this.

5 And you're entitled to know everything that's in the 09:40:26
6 report, because I should be sentencing you based on correct
7 information. And for that reason, when a copy of the report
8 was completed, it was given to Mr. Buesing, with the
9 expectation that he would review it with you in its entirety.

10 Did you do that, Mr. Buesing? 09:40:40

11 MR. BUESING: Yes, Your Honor.

12 THE COURT: And does the defense have any objection to
13 any of the factual statements or guideline calculations
14 contained in the report?

15 MR. BUESING: No. 09:40:48

16 THE COURT: Okay. How about the government,
17 Mr. Koehler?

18 MR. KOEHLER: No objections to the presentence report,
19 Your Honor.

20 THE COURT: All right. Neither the facts nor the 09:40:55
21 guideline calculations?

22 MR. KOEHLER: Correct, Your Honor.

23 THE COURT: Let me just review what I understand to be
24 the terms of your plea agreement, or the essential terms,
25 Mr. Frazier, so we can both be sure we're operating on the same 09:41:06

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1 basis of information.

2 In exchange for your plea of guilt to Count 2 of the
3 indictment, which is the count that charges you with possession
4 of a firearm in furtherance of a drug trafficking offense, the
5 United States stipulated -- now, "stipulated" is a legal word 09:41:21
6 that means a kind of a binding agreement. They can't control
7 what I do, but they can control the plea agreement. And they
8 stipulated with you that you'd receive a sentence between 72
9 and 122 months. So that leaves the discretion to me between 72
10 and 122 months, but they stipulated you wouldn't receive more 09:41:43
11 than that, and you stipulated that you wouldn't receive less
12 than that; that you would provide a full accounting of assets;
13 that you would get a three-level reduction in the number called
14 your Criminal Offense Level.

15 And your Criminal Offense Level is a number between 1 09:42:03
16 and 43 which, together with your criminal history, provides a
17 recommended range of months in which I sentence you according
18 to the federal sentencing guidelines, generally. In your case,
19 it's a little bit different.

20 The government also agreed to dismiss Count 1, you 09:42:17
21 agreed to forfeit all the firearms that are listed in your plea
22 agreement in section 8B, and you agreed to waive any defenses,
23 appeal rights, or rights to collaterally attack any -- this
24 sentence at any future time.

25 Are those the essential terms of your plea agreement 09:42:35

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1 as you understand it?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Okay. Mr. Buesing, I've read the letters
4 from Janet Frazier, is it Gallison, C.J. Frazier, Vicki Davis,
5 Juliette Snider, Donna -- is it Nadeau? Can't read my own 09:42:57
6 writing -- Nancy Grutman, and somebody else who I -- I must
7 have been writing this late at night. It is (phonetic)
8 Aroar -- oh, (phonetic) Roar, Angela Roar. I've read all those
9 letters.

10 What else do you have to say by way of allocution? 09:43:17

11 MR. BUESING: Did the Court also receive my sentencing
12 memorandum?

13 THE COURT: I did, and I read your sentencing
14 memoranda.

15 Let me tell you what -- let me tell you what's really 09:43:29
16 going to engage me here. The government, I think, makes a
17 pretty convincing case that your client said some very
18 offensive things that are very concerning and not very wise.
19 I'm not really concerned about any of them. You've said that
20 they're puffery, and I can accept that they may well have been 09:43:48
21 puffery.

22 There is one that concerns me, and that is the
23 representation to the confidential informant that he was
24 capable and willing to kill his cousin. That's the one -- I
25 mean, I think the others are reprehensible, they're not very 09:44:03

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1 smart, but they're not going to add to his Criminal Offense
2 Level unless they can -- the government can demonstrate that he
3 actually did something about them.

4 But the one that concerns me is his willingness in
5 engaging in the transaction to actually enter into negotiations 09:44:17
6 to kill who -- whom he believed to be the confidential
7 informant's cousin. That's what concerns me. So if you want
8 to directly address what concerns me, that's it.

9 MR. BUESING: Yes, Your Honor. I think when --
10 ultimately, the Court asked if we had any objection to the 09:44:37
11 presentence report. I don't have an objection. That's why in
12 the sentencing memorandum I filed I was wanting to place more
13 of those comments in context in which they happened.

14 Now, in this case it's something that --

15 THE COURT: Well, here's why it concerns me. I mean, 09:44:55
16 in the context of negotiating the deal in which he actually did
17 hit what he thought to be cars stashed with drugs, he was
18 negotiating to kill somebody, and that seems to me to be a
19 little bit more than puffery.

20 MR. BUESING: I understand, Your Honor. And this 09:45:11
21 particular conversation with the undercover officer happened
22 over the course of a couple months. In fact, there was a
23 period of time for about I want to say six weeks where they
24 didn't speak at all and the undercover was not able to reach
25 Mr. Frazier. 09:45:33

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1 And so Mr. Frazier had just been working repairing air
2 conditioners and doing as he normally does, but when the
3 undercover contacted him to ask him, you know, "Where have you
4 been?" my client's response was, "Well, we were out of the
5 country on a job."

09:45:50

6 So I guess the reason I explained that is because it
7 falls in line with the comment about the undercover's supposed
8 cousin, I guess, in the course of the conversation, that Parris
9 was interested in trying to get funds to put back into their
10 patriotic operation. In his conversation with the undercover,
11 it was presented to him that the undercover was doing these
12 things because his cousin was running this operation for the
13 cartel bringing things in and organizing things going out of
14 the United States, and how he wanted to do all these things to
15 make his cousin look bad. And when I was listening to the
16 conversations that were recorded with Parris, it was presented
17 by Parris that, Well, we could just take care of your cousin.

09:46:10

09:46:35

18 And it -- to address the Court's concern specifically,
19 it all fell in line with Parris just basically trying to say
20 things that rose to the level of who he thought he was dealing
21 with. Because in my conversations with Parris, his ultimate
22 goal was to effectuate some type citizen's arrest with regard
23 to the undercover officer.

09:47:00

24 Like I said in my memoranda, looking back with 20/20
25 hindsight, as misguided as those thoughts might be, that was

09:47:24

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1 the thought process that he was going through. It wasn't
2 something where he -- he was actually going to participate in
3 the murder of somebody else. This wasn't a situation where he
4 was actually a mercenary or any of these things that he
5 presented to the undercover officer. He presented that he 09:47:42
6 worked with professionals, that he was a mercenary, he was all
7 these things and willing to do these things, but in reality, he
8 basically worked in heating and air-conditioning and was trying
9 to obtain funds for his personal things that he was passionate
10 about. 09:48:06

11 And so again, to address the Court's concern about him
12 offering to kill the undercover's cousin, that was just in the
13 course of these many conversations that they had and he's just
14 throwing things out there. He didn't actually intend to do any
15 of these things, and he didn't actually do any of these things. 09:48:29

16 And that's, I guess, at the basis, the reason that I
17 tried to provide some clarification about these conversations,
18 and that what was presented to the undercover officer was
19 something much different than what reality was, from Parris's
20 perspective. 09:48:48

21 And so it's -- that's why I pre- -- or tried to
22 present some clarification and context with regard to what's
23 presented in the presentence report, because what's said in the
24 presentence report does come from the investigation, but it's
25 solely from the recordings. But when you look at the 09:49:04

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1 recordings and what was said to the undercover officer, who he
2 thought was a cartel member, and what was actually a reality
3 from Mr. Frazier's perspective, that's the reason I say that a
4 lot of what was said to the undercover officer was just
5 posturing to try to seem like he was legitimate and could
6 actually be an individual that could participate in trying to
7 take this money.

09:49:26

8 THE COURT: Mr. Frazier, do you have anything you'd
9 like to say prior to sentencing?

10 THE DEFENDANT: Yeah.

09:49:42

11 THE COURT: Would you please speak into a microphone
12 so I can hear you.

13 THE DEFENDANT: Yes. Yes, Your Honor. I think
14 Mr. Buesing has hit the nail on the head. I -- I'm just -- I'm
15 just an -- an old person that's trying to make my way through
16 life. I -- you know, a lot of these things that were said were
17 said -- it was a bolstering thing, because I was under the
18 impression that this person was who he said he was.

09:49:55

19 I don't have it in me to go kill anybody, I really
20 don't, because I just don't have it in me, you know. I made a
21 very big mistake in all this stuff. I thought I was doing the
22 right thing and it -- and it turned around and it bit me in
23 the -- in the behind.

09:50:17

24 I thought that I could get away with, you know,
25 setting this thing up, getting -- getting -- making -- having

09:50:35

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1 everything go down and then turning him over to law enforcement
2 using Arizona Revised Statutes, you know, citizen's arrest,
3 felony drug, stuff like that, so I bolstered it up and, you
4 know, it backfired on me.

5 I -- I don't know what else to say, Your Honor, other
6 than I'm sorry.

09:50:54

7 THE COURT: Thank you.

8 Mr. Koehler.

9 MR. KOEHLER: Your Honor, the government respectfully
10 disagrees with the notion that this is mere social --

09:51:02

11 THE COURT: Could I get you to --

12 MR. KOEHLER: Absolutely. The government respectfully
13 disagrees with the notion that this is mere social puffery on
14 the part of the defendant. First off, the conversation with
15 the undercover agent about killing the agent's cousin came
16 before the break in communications. That came in March and
17 April of 2015. The break in communications was from mid-April
18 to about mid-June of 2015. And the defendant was out of state
19 and had left his so-called burner phone apparently back in
20 Arizona while he was gone, and that's why the break in
21 communications took place.

09:51:17

09:51:36

22 But importantly, the undercover agent merely talked
23 about making his cousin look bad in order to create disfavor
24 for the cousin within the organization and increase
25 opportunities for the undercover agent. Meanwhile, the

09:51:53

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1 defendant on his own came up with the idea of offering to kill
2 the cousin and get him out of the way. And that obviously led
3 to the agency being very careful in terms of how they staged
4 the operation so that there would be nobody in the vicinity of
5 those vehicles.

09:52:13

6 The defendant and his cohorts showed up armed and
7 ready for action when they did so. In addition, the
8 defendant -- this isn't the only time the defendant has shown
9 up ready for action. He showed up at the Bundy ranch ready for
10 action there after making the postings that he made and
11 encouraging other people to come join him at the (phonetic)
12 Bundy Ranch to stand up to the federal government. This is an
13 armed standoff that occurs; this is not just somebody making a
14 call-out or a shout-out over Facebook. This is --

09:52:31

15 THE COURT: What should we do with our --

09:52:45

16 MR. KOEHLER: -- somebody who's following through.

17 THE COURT: -- congressmen who did the same thing,
18 Mr. Koehler?

19 MR. KOEHLER: I'm sorry?

20 THE COURT: What should we do with our Congress people
21 who did the same thing?

09:52:53

22 MR. KOEHLER: The difference is is they didn't take
23 the next step, which is to engage in a drug -- drug rip while
24 armed. And so there's this extra step that he's taking that
25 shows that, you know, he's not just there for show; he's there

09:53:08

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1 to actually do something.

2 Fortunately, nothing occurred, and fortunately, when
3 the police confronted him after the drug rip, he fled instead
4 of engaging in an armed standoff with police in that scenario.
5 But the simple fact is is he was in fact ready for action.

09:53:26

6 And so this isn't just the -- the commentary of
7 somebody seeking to post -- puff up his social image; this is
8 somebody who's ready for action, this is somebody who's
9 dangerous, and the government stands by its recommendation.

10 Thank you.

09:53:41

11 THE COURT: Um-hum.

12 Let me ask you, Mr. Koehler, is there any evidence,
13 other than what's on the Facebook page -- and I grant you, it's
14 concerning; it's offensive -- is there any evidence other than
15 the Facebook page and the Bundy ranch incident that this
16 defendant has actually ever engaged in actual acts of violence
17 or prepared to engage in actual acts of violence?

09:53:56

18 MR. KOEHLER: No, Your Honor.

19 THE COURT: Thank you.

20 Well, Mr. Buesing, when I sentence somebody, this is
21 what I have to do: I have to consider the nature and
22 circumstances of the offense and the history and the
23 characteristics of the offender. The nature and circumstances
24 of your offense were highly dangerous and they're serious,
25 and -- so I have to take that into account.

09:54:21

09:54:57

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1 You don't have much of a criminal history. You do
2 have some misdemeanor offenses that involve a little bit of
3 violence and poor judgment, but -- but they are misdemeanors; I
4 recognize that.

5 Then I have to consider -- I have to apply a certain 09:55:11
6 number of sentencing factors that are set forth in the statute.
7 I have to have the sentence reflect the seriousness of the
8 offense, which is a major consideration for you. I have to
9 have it promote respect for the law and provide a just
10 punishment. I have to have it deter not just you, but others 09:55:28
11 who are aware of this matter, from engaging in criminal conduct
12 like this. So it isn't just considering what's fair to you;
13 it's considering what's necessary to deter the public.

14 I have to protect the public from further crimes that
15 you might commit, I have to consider the federal sentencing 09:55:45
16 guideline ranges, and I have to consider how I sentence other
17 people who are similarly situated.

18 The kind of rhetoric in which you engage is offensive
19 and concerning, but we still have the First Amendment in this
20 country. You can say what you want to say and I'm not going to 09:56:01
21 hold that against you even if I don't personally agree with it.

22 I do think, though, that when you start volunteering
23 to kill somebody, that, in and of itself, is, arguably, a
24 separate crime, for which you were not charged; and even if it
25 was puffery -- and I can understand that it may well have been 09:56:20

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1 puffery -- it does represent a concern that I think needs to be
2 taken into account in sentencing about how far you were willing
3 to go.

4 And so I'm not going to give you the low end of the
5 guideline range, but by the same token, I suspect that it is 09:56:40
6 most likely that what you were engaged in was puffery, that you
7 engaged with your friends and those who see the world the way
8 you do in extremely dangerous activity, and it was criminal
9 activity. And even if you wanted to do citizen's arrests under
10 the A.R.S., you engaged in criminal activity, and you have no 09:57:04
11 authorization to engage in criminal activity.

12 And so I do think it deserves some serious punishment,
13 but I'm not going to sentence you at the high end of the range,
14 because I think you were, frankly, very unwise to say stupid
15 and dangerous [sic]. But I don't see sufficient evidence to 09:57:30
16 sentence you in the high end of the guideline range because --
17 for re- -- well, essentially, for the reasons that I've
18 explained.

19 Even though I don't agree with your speech, you have
20 the right to speak. You don't have the right to commit a 09:57:44
21 crime, and you did do it in circumstances in which I can
22 understand that the government thinks you're a dangerous person
23 and the public needs to be protected from you. I hope that
24 when you get out you'll demonstrate that you are not such a
25 person -- 09:57:57

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1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: -- and that you'll comply with the terms
3 of your supervised release.

4 So I'm going to give you an 84-month sentence. That's
5 seven years, it's one year more than the minimum I could have
6 imposed, and I believe it's three years less than the maximum.
7 And that is the best way I can balance the various
8 considerations I've discussed with you.

09:58:05

9 I do hope, sir, that you will have a successful -- by
10 that I mean an uneventful incarceration; that you will, when
11 you get out, comply with the terms of your supervised release;
12 and that you will lead a peaceful and law-abiding life. And
13 even if you have strong feelings about immigration, about other
14 matters, that you will confine yourself to legal activity.

09:58:25

15 THE DEFENDANT: Yes, Your Honor.

09:58:42

16 THE COURT: Pursuant to the Sentencing Reform Act of
17 1984, it's the judgment of the Court that Parris Frazier is
18 hereby committed to the Bureau of Prisons for 84 months.

19 The defendant shall pay a special assessment of \$100,
20 which shall be due immediately.

09:58:52

21 The Court finds that the defendant does not have the
22 ability to pay and orders that any other fine be waived, which
23 means that you'll pay a total of \$100 in criminal monetary
24 penalties, and that amount is due immediately.

25 Having assessed your ability to pay that amount, the

09:59:10

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1 payment of the total criminal monetary penalties is due as
2 follows: The balance is due in equal monthly installments of
3 \$25 over a period of four months, to commence 60 days after
4 your release from imprisonment.

5 During your incarceration, payment of criminal
6 monetary penalties is due at a rate of no less -- or not less
7 than \$25 per quarter, and payments shall be made through the
8 Bureau of Prisons Inmate Financial Responsibility Program.

9 Criminal monetary payments shall be made to the Clerk
10 of the United States District Court, Attention: Finance,
11 Suite 130, 401 West Washington Street, SPC 1, Phoenix, Arizona
12 85003-2118.

13 Payments should be credited to the various monetary
14 penalties imposed by the Court in the priority established
15 under 18, United States Code, Section 3612(c).

16 The Court hereby waives the imposition of interest and
17 penalties on any unpaid balance.

18 Upon your release from imprisonment, you shall be
19 placed on supervised release for five years, and while you are
20 on supervised release you shall comply with the standard
21 conditions of supervision as adopted by this Court in General
22 Order 12-13.

23 Of particular importance: You shall not commit
24 another federal, state, or local crime during the term of your
25 supervision.

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1 Within 72 hours of your release from the custody of
2 the Bureau of Prisons you shall report in person to the
3 probation office in the district to which you were released.

4 You shall comply with the following additional
5 conditions: You shall participate in a mental health program 10:00:38
6 as directed by the probation officer, which may include taking
7 prescribed medication. You shall contribute to the cost of
8 treatment in an amount to be determined by the probation
9 officer.

10 You shall not uti- -- pardon me. You shall not 10:00:52
11 utilize, by any means, any social networking forums offering an
12 interactive user-submitted network of friends, personal
13 profiles, blogs, chat rooms, or other environment which allows
14 for interaction with others, without prior written permission
15 from the probation officer. 10:01:09

16 You are prohibited from associating or contacting
17 militia members, past and current, throughout the term of
18 supervision.

19 You shall comply with the standard condition of
20 supervision requiring full-time employment at a lawful 10:01:21
21 occupation. This may include participation in training,
22 counseling, and/or daily job searching as directed by the
23 probation officer.

24 If you are not in compliance with this condition of
25 supervision, you may be required to perform up to 20 hours of 10:01:33

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1 community service per week until employed as approved or
2 directed by the probation officer.

3 You shall submit your person, property, house,
4 residence, vehicle, papers, computers, as defined in 18, United
5 States Code, Section 1030(e)(1), other electronic 10:01:50
6 communications or data storage devices or media or office, to a
7 search conducted by a probation officer. Failure to submit to
8 a search may be grounds for revocation of release. You shall
9 warn any other occupants that the premises may be subject to
10 searches pursuant to this condition. 10:02:05

11 You are prohibited from owning, using, or maintaining
12 a firearm.

13 The defendant's interest in the following property
14 shall be forfeited to the United States (as listed
15 in the Indictment): an HK P2000 .40 caliber S&W, serial number
16 123-014011; an HK P2000 magazine; Springfield Armory XD-45 ACP,
17 serial number XD694265; Springfield Armory XD-45 magazine;
18 Arsenal Model SLR-1015 7.62x39 caliber, serial number KP390126;
19 7.62x39 caliber magazine; Spikes Tactical SL-15 lower, serial
20 number SAR54721 with 5.11 sling; Magpul PMAG 5.56x45; Walther
21 PK380, serial number PK081315; a Walther .380 magazine; a Glock
22 17 9x19, serial number WR838; a Glock 17 magazine; Smith and
23 Wesson .357 magnum revolver, serial number NF218732; Smith and
24 Wesson .22 long-rifle CTG revolver, serial number 3K72887; YHM
25 Model YHM-15 5.56, serial number YH021761, with EOTech optic

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1 and flashlight; Magpul PMAG 5.56x45; AR-15 Model AR15F, serial
2 number 10695, with flashlight and sling; Magpul PMAG 5.56x45;
3 Sturm, Ruger & Co. Ruger P94, serial number 308-58139; a Ruger
4 P94 magazine; Savage 308, serial number F536903, with scope and
5 sling; a 5.56x45 upper receiver; LG Model L5620 with serial
6 number 408CYKJ0117965; a Samsung flip phone, serial number
7 R21D9AVEZ5W; Samsung Galaxy phone, serial number R28G509NXPY; a
8 YAESU FM Transceiver FT-60, serial number 2M580427; a BAOFENG
9 Dual Band FM Transceiver UV-5RAX+; a BAOFENG Dual Band FM
10 Transceiver UV-5RV2+; Big Horn Arms WTH-S, serial number
11 000242; Big Horn Arms WTH-S, serial number 0001000; and five
12 rounds of Winchester .308 caliber ammunition.

13 Do you understand the sentence as I've imposed it upon
14 you, sir?

15 THE DEFENDANT: Yes, Your Honor.

10:05:49

16 THE COURT: Now, Mr. Buesing, I believe that I have
17 accepted the defendant's plea agreement and sentenced him in
18 compliance with that agreement.

19 Does the defense have any objection to such a finding?

20 MR. BUESING: No objection, Your Honor.

10:05:58

21 THE COURT: Does the prosecution have any objection,
22 Mr. Koehler?

23 MR. KOEHLER: No, Your Honor.

24 THE COURT: All right. Then I do so find.

25 And what that means for you, Mr. Frazier, is this:

10:06:06

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1 When you entered your plea agreement, you agreed that if I
2 sentenced you in compliance with it you would waive your right
3 to appeal, so I believe you have waived your right to appeal.

4 Despite that waiver, the government doesn't seek to
5 prevent you from raising an argument that for some reason the 10:06:21
6 government engaged in prosecutorial misconduct in bringing
7 these charges against you, or that you were deprived of the
8 effective assistance of counsel in defending yourself against
9 these charges.

10 To the extent, therefore, that you may have preserved 10:06:34
11 some appellate right based on those arguments, you would have
12 also preserved the right to apply for leave to appeal
13 in forma pauperis, assuming you otherwise qualify. If you
14 exercise that right, then the clerk of the court will prepare
15 and file a notice of appeal on your behalf. But with few 10:06:51
16 exceptions, any such notice must be filed within 14 days of
17 today's judgment.

18 Do you understand that, sir?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: All right. Anything else on behalf of 10:07:00
21 your client, Mr. Buesing?

22 MR. BUESING: If I may have just one moment, Your
23 Honor.

24 (Off-the-record discussion between Mr. Buesing and the
25 defendant.) 10:07:12

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1 MR. BUESING: Thank you, Your Honor.

2 Mr. Frazier was asking if the Court would be willing
3 to recommend that he be housed in a facility that's in the
4 Northeast United States. He's been looking at some programs
5 for the Bureau of Prisons for various counseling and recovery
6 services at facilities located in Pennsylvania. He's very
7 interested in those.

10:07:49

8 I've explained to him that the Court cannot order that
9 he participate or be housed in a certain location, but he would
10 ask if the Court would be willing to recommend that he be
11 housed at a facility in the Northeast where they have these
12 programs.

10:08:10

13 THE COURT: Well, I don't know what kind of programs
14 you're talking about.

15 MR. BUESING: Well, they're counseling programs for
16 substance abuse and --

10:08:21

17 THE COURT: Do you have any reason to believe your
18 client needs substance abuse counseling?

19 MR. BUESING: I don't personally, Your Honor, but I
20 will say that I've discussed with him and he's expressed an
21 interest in trying to help others, because he wants to convey
22 things that he's learned onto others to try to assist them from
23 making bad choices, and that includes substance abuse.

10:08:35

24 So I know that he's participated in some programs
25 about substance abuse, also anger management and other things,

10:08:54

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1 and so these are all things that he's interested in trying to
2 pursue further so that he can try to --

3 THE COURT: Any comment on that, Mr. Koehler?

4 MR. KOEHLER: No, Your Honor.

5 THE COURT: All right. Let me tell you, Mr. Frazier,
6 that I don't have any objection to making a recommendation that
7 you be housed somewhere in the Northeast at your request.

10:09:10

8 However, I'm not going to recommend that you
9 participate in substance abuse treatment programs. I'm not
10 going to deprive you from participating in them if you'd like
11 to and the government has space. But I will tell you that so
12 many people come through here who have very bad substance abuse
13 problems, which produce crime. And it's very hard to get into
14 some of the more intense substance abuse treatment programs
15 just because of space limitation.

10:09:25

10:09:40

16 I don't have any evidence that you have a substance
17 problem, or at least not sufficient evidence that you do. To
18 the extent you want to participate and can establish that you
19 should, then you can bring that evidence to the Bureau of
20 Prisons and they can consider that. To the extent that you
21 merely want to be a participant in learning counseling
22 techniques, you can make that request and I will let them deal
23 with it. But with those caveats, I'll recommend that you be
24 considered for placement somewhere in the Northeast. All
25 right?

10:09:54

10:10:10

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1 THE DEFENDANT: Thank you, Your Honor.

2 THE COURT: All right.

3 THE DEFENDANT: Appreciate that.

4 THE COURT: Anything -- let's see. The government has
5 a count of the indictment to dismiss?

10:10:15

6 MR. KOEHLER: That's correct, Your Honor. The
7 government moves to dismiss Count 1.

8 THE COURT: All right. Count 1 is dismissed.
9 Anything else from either party?

10 MR. KOEHLER: No, Your Honor.

10:10:26

11 MR. BUESING: No, Your Honor. Thank you for your
12 time.

13 THE COURT: Thank you.

14 (Proceedings concluded at 10:10 a.m.)
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C E R T I F I C A T E

I, GARY MOLL, do hereby certify that I am duly appointed and qualified to act as Official Court Reporter for the United States District Court for the District of Arizona.

I FURTHER CERTIFY that the foregoing pages constitute a full, true, and accurate transcript of all of that portion of the proceedings contained herein, had in the above-entitled cause on the date specified therein, and that said transcript was prepared under my direction and control.

DATED at Phoenix, Arizona, this 29th day of July, 2017.

s/Gary Moll